**IN THE UNITED STATES DISTRICT COURT**
**FOR THE NORTHERN DISTRICT OF TEXAS**
**DALLAS DIVISION**

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| **LISA SHARDON and ANGELO DEFILIPPO,** | § | |
| **Plaintiffs,** | § | |
| **v.** | § | **No. 3:14-CV-1171-BF** |
| **WELLS FARGO BANK, N.A. and JPMORGAN CHASE BANK, N.A.,** | § | |
| **Defendants.** | § | |

## ORDER

Before the Court is Defendants' Motion for Clarification and Reconsideration [ECF No. 81].Upon consideration, this motion is GRANTED in part and DENIED in part.

In this motion, Defendants seek clarification of the Court's September 14, 2016 Order which granted Plaintiffs' request for discovery pertaining to Defendants' policies and procedures, but put a time limitation on the production of the policies and procedures pertaining to Plaintiffs' loan and loan modification applications to the past six years. Order 5, ECF No. 80. Defendants seek clarification as to whether the Court ordered the production of all discovery sought in Plaintiffs' Motion to Compel [ECF No. 67] pertaining to Defendants' policies and procedures or only ordered the production of Defendants' policies and procedures. Mot. 3, ECF No. 81. Defendants' request for clarification with respect to the Court's Order on Defendants' policies and procedures is granted. The Court granted all of Plaintiffs' discovery requests pertaining to Defendants' policies and procedures requested in the Motion to Compel. Pls.' Br. 17-21, ECF No. 68. However, in Plaintiffs' Response to Defendants' Second Motion for Protective Order, Plaintiffs argued that Defendants failed to show that they would be harmed by disclosing the policies and procedures applicable to Plaintiffs' loan and loan modification applications for the past six years. Resp. 2, ECF No. 77. Therefore, the Court so limited the production of the policies and procedures applicable to Plaintiffs' loan and loan modification applications to the past six years.

Defendants also ask the Court to reconsider its decision in its September 14, 2016 Order regarding discovery sought by Plaintiffs pertaining to a Massachusetts lawsuit. Mot. 3, ECF No. 81. Defendants argue that Plaintiffs failed to show that the allegations in that lawsuit is relevant to the claims in this lawsuit. Mot. 4, ECF No. 81. Defendants contend that the Massachusetts lawsuit was a multi-district litigation consolidating 16 cases filed in 13 different states, none of which were in Texas nor applied the Texas Constitution's provisions pertaining to home equity loans as in the present lawsuit. Mot. 4, ECF No. 81. Moreover, Defendants argue that to the extent that Plaintiffs seek testimony regarding the similarities and differences between the allegations in that lawsuit and this case, Plaintiffs are equally capable of reviewing them own their own. Mot. 4, ECF No. 81. In the response, Plaintiffs argue that the Massachusetts litigation is relevant to Plaintiffs' claims in this case, because Plaintiffs were included in the settlement that resulted from that case, and Plaintiffs' Amended Complaint specifically alleges that Plaintiffs received notice of a proposed settlement in that case that purported to settle claims which alleged that Chase failed to offer timely and permanent loan modifications after completion of a trial plan. Resp. 4, ECF No. 86. Therefore, Plaintiffs argue that they are entitled to the discovery pertaining to that lawsuit, because they are making virtually identical allegations in this case and the reasons for Plaintiffs' inclusion in the proposed settlement of that case is directly relevant to the allegations in Plaintiffs' Amended Complaint in this case. Resp. 4, ECF No. 86. In their reply, Defendants reiterate that none of the allegations made in the Massachusetts lawsuit involved loans subject to the Texas Constitution. Reply 3, ECF. No. 88. Defendants also argue that Plaintiffs are not seeking testimony regarding the underlying facts of the Massachusetts litigation or the terms of the settlement in that case, but seek testimony regarding the similarities and differences between the allegations made in this lawsuit and that case, and Plaintiffs may make their own comparisons without making the Defendants be deposed about what the allegations do or do not say. Reply 3, ECF No. 88.

Upon consideration, the Court finds that relevance should not be so limited in scope as Defendants argue, and Plaintiffs' Amended Complaint makes allegations sufficient to make discovery regarding the Massachusetts litigation relevant to this case. *See Nickell v. Flight Options, LLC*, No. 3:10-CV-1323-D, 2010 WL 3784497, at *3 (N.D. Tex. Sept. 27, 2010) ("Plaintiff also seeks information regarding other lawsuits brought against defendant involving the repurchase of a fractional interest of an aircraft since January 1, 2001. 'Discovery of other lawsuits is not a subject that is amenable to a *per se* rule. The Court must look to the relevance of the other suits to the particular claims at issue.' . . . Here, plaintiff alleges that defendant breached a contract to repurchase his fractional ownership interest in two aircraft and committed fraud in connection with the marketing of that contract. If other fractional owners sued defendant for breach of contract or fraud in connection with the repurchase of their interests in aircraft, discovery concerning those lawsuits is reasonably calculated to lead to the uncovering of substantially similar occurrences. . . . Presumably, defendant knows if it has been sued by other fractional owners of aircraft, and can provide plaintiff with some basic information about those lawsuits." (quoting *Kormos v. Sportsstuff, Inc.*, No. 06-CV-15391, 2007 WL 2571969 at *2 (E.D. Mich. Sept. 4, 2007); citing *Thornton v. State Farm Auto. Ins. Co.*, No. 1:06-CV-18, 2006 WL 3499986 at *2 (N.D. Ohio Dec. 5, 2006); citing *Enron Corp. Savs. Plan v. Hewitt Assoc., LLC*, 258 F.R.D. 149, 166 (S.D. Tex. 2009)); citing *Lohr v. Stanley-Bostitch, Inc.*, 135 F.R.D. 162, 164 (W.D. Mich. 1991))). While Defendants argue that Plaintiffs are not seeking testimony regarding the underlying facts of the Massachusetts litigation or the terms of the settlement in that case, but only seek testimony regarding the similarities and differences between the allegations made in the two cases, implicit in the inquiry regarding the similarities and differences is an inquiry regarding the underlying facts. Therefore, Defendants' request for reconsideration with respect to the Court's ruling on the Massachusetts lawsuit is denied.

**SO ORDERED**, this 10th day of September, 2016.

PAUL D. STICKNEY
UNITED STATES MAGISTRATE JUDGE